

Tabled document no: 1

Portfolio: HEALTH & AGEING.

By: DOITA (MR SIMON COTTERELL)

Date: 19/10/2011

**List of all Tobacco FOI requests made to the Department of Health and Ageing  
 as at 18 October 2011**

**Summary table**

Status Category	Number of Requests
Completed	11
Processing	14
Negotiation	16
Withdrawn by applicant	12
Deemed withdrawal	5
Deemed refusal	3
Access refused	2
<b>TOTAL</b>	<b>63</b>

**Note: shading highlights those requests which have been completed or withdrawn.**

No	Terms of request	Date received	Applicant	Status
1	<p>All documents (hard or soft copy), including but not limited to policy discussion papers, legal advice, policy advice and communications originating in or sourced for the Department or another organisation within or external to the government, addressing or discussing proposals and/or legislation to introduce plain packaging and/or the removal of trademarks on consumer products, including but not limited to tobacco products and/or R18+ classified films.</p> <p>The Department accepted the partial transfer, in respect of the elements of this request that relate to plain packaging of tobacco products.</p> <p>Letter specifying estimate of charges was sent on 30 June 2010. No response was received from the applicant, and the request was deemed to have been withdrawn on 18 August 2010.</p>	<p>31 May 2010                      (Partial transfer from the Dept of Innovation, Industry, Science and Research)</p>	<p>Institute of Public Affairs</p>	<p>Deemed withdrawal</p>

No	Terms of request	Date received	Applicant	Status
2	<p>Same as request No. 1.</p> <p>The Department accepted the partial transfer of this second request, from IP Australia, in respect of the elements of this request that relate to plain packaging of tobacco products. This request was processed with the above request. Letter specifying estimate of charges was sent on 30 June 2010. No response was received from the applicant, and the request was deemed to have been withdrawn on 18 August 2010.</p>	<p>18 June 2010 (Partial transfer from IP Australia)</p>	<p>Institute of Public Affairs</p>	<p>Deemed withdrawal</p>
3	<p>Documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents.</p>	<p>28 June 2010</p>	<p>Philip Morris Limited (PML)</p>	<p>Completed</p>
4	<p>Documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products.</p>	<p>Transfer FOI Treasury</p>	<p>PML</p>	<p>Completed</p>
5	<p>Documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products.</p>	<p>Transfer FOI DFAT</p>	<p>PML</p>	<p>Completed</p>
6	<p>Documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products.</p>	<p>Transfer FOI DIISR</p>	<p>PML</p>	<p>Completed</p>
7	<p>Documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products.</p>	<p>Transfer FOI DOFA</p>	<p>PML</p>	<p>Completed</p>
8	<p>Documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products.</p>	<p>Transfer FOI AGD</p>	<p>PML</p>	<p>Completed</p>
9	<p>All documents used in decision making for Anti-Smoking Action of 29 April 2010.</p>	<p>1 July 2010</p>	<p>BATA</p>	<p>Completed</p>
10	<p>All advice, documents, information on generic packaging during Minister Dr Carmen Lawrence time in office.</p>	<p>2 July 2010</p>	<p>BATA</p>	<p>Completed</p>



No	Terms of request	Date received	Applicant	Status
11	<p>All documents created within the period from 1 January 2008 to date 19 July 2010 referring or relating to:</p> <p>(a) the formulation and drafting of the "Tobacco Recommendations" contained in the report titled, "Taking Preventative Action" (at pages 61 to 85 inclusive) released by the Department on 11 May 2010;</p> <p>(b) the expected effect of the introduction of the plain packaging of tobacco, appeal and desirability of smoking;</p> <p>(c) any other expected effect of the introduction of the plain packaging of tobacco products; and</p> <p>(d) the use of packaging by the tobacco industry, including in relation to "brand image".</p>	5 July 2010	BATA	Processing
12	<p>All documents created within the period from 1 January 2008 to date 19 July 2010 referring or relating to:</p> <p>(a) the commission or conduct of a Regulatory Impact Statement in relation to the plain packaging of tobacco products;</p> <p>(b) any assessment of the impact, including costs, benefits and levels of risk, associated with the introduction of plain packaging of tobacco products on consumers, business, government and the community;</p> <p>(c) the optimal pack design to achieve the public health objectives associated with the plain packaging of tobacco products; and</p> <p>(d) concerns of retailers associated with the plain packaging of tobacco products.</p>	23 July 2010	BATA	Processing
13	<p>All documents that fall within the following categories "Technical Report 2: Tobacco control in Australia: making smoking history including addendum for October 2008 to June 2009" (G Report) where those documents refer or relate to any of the following matters:</p> <p>(a) the consideration, development and drafting of the "Action Proposed" that is recorded in the following terms at page 21 of the TWG Report;</p> <p style="text-align: center;"><b>ACTION PROPOSED</b></p> <p>Require all tobacco products to be sold in plain packaging, the</p>	23 July 2010	BATA	Processing

<p>exact appearance of which (precise colour, paper finish, shape of pack etc) could be prescribed in regulations under the Trade Practices Act 1974</p>	<p>Commission research to determine exactly how packs should be designed to minimise appeal to young people.</p>			
<p>(b)</p>	<p>the consideration, development and drafting of the "Action Proposed" that is recorded in the following terms at page 22 of the TWG Report;</p> <p><b>ACTION PROPOSED</b></p> <p>Amend Schedule 2 to the Trade Practices (Consumer Product Information Standards) (Tobacco) Regulations 1974 to prescribe that health warnings must cover at least 90% of the front and 100% of the back of the pack.</p>			
<p>(c)</p>	<p>the consideration, development and drafting of the "Action" that is recorded in the following terms at page 98 of the TWG Report:</p> <p><b>Action 3.1</b></p> <p>Legislate to eliminate all remaining forms of promotion, including promotion of price, public relations activities, payments to retailers and proprietors of hospitality venues, promotion through packaging and, as far as feasible, through new and emerging forms of media.</p>			
<p>(d)</p>	<p>the consideration, development and drafting of the "Action" that is recorded in the following terms at page 99 of the TWG Report:</p> <p><b>Action 3.3</b></p> <p>Eliminate promotion of tobacco products through design of packaging.</p>			

No	Terms of request	Date received	Applicant	Status
14	<p>All documents that fall within the following categories documents refer or relate to any of the following matters:</p> <ul style="list-style-type: none"> <li>(a) the scope or terms of reference of the report by Professor Susan Hurley, Dr Matthew Spittal, Ms Michelle Scollo, Dr Sarah Durkin and Professor Melanie Wakefield commissioned by the NPHT and titled "Predicted impact of proposed tobacco control strategies" dated June 2009 (Report), including any consideration or decision in relation to whether the scope or terms of reference of that Report should include consideration of the impact of the plain packaging of tobacco products;</li> <li>(b) the preparation of the Report, including any drafts of the Report; and any other reports, papers or research commissioned by or on behalf of the Department, the NPHT or the TWG; or by</li> <li>(c) any other Commonwealth Department or agency, in relation to the impact of proposed tobacco control strategies including plain packaging.</li> </ul>	23 July 2010	BATA	Processing
15	<p>All documents created within the period from 1 January 2008 to date 19 July 2010:</p> <ul style="list-style-type: none"> <li>(a) records of the National Preventative Health Taskforce (NPHT) and the Tobacco Working Group of the NPHT (TWG), including records of communications between the Department and the NPHT and TWG;</li> <li>(b) research commissioned or considered by the Department, the NPHT or the TWG;</li> </ul> <p>where those documents refer or relate to any of the following matters:</p> <ul style="list-style-type: none"> <li>(a) anti-counterfeit measures, including any increased incidence of counterfeiting, associated with the plain packaging of tobacco products; and</li> <li>(b) the illicit trade of tobacco products, including any anticipated increase in illicit trade, associated with the plain packaging of tobacco products.</li> </ul>	23 July 2010	BATA	Processing

No	Terms of request	Date received	Applicant	Status
16	<p>All documents that comprise the following "major sources" used in the preparation of the report prepared by the Tobacco Working Group of the National Preventative Health Taskforce titled, "Technical Report 2: Tobacco control in Australia: making smoking history including addendum for October 2008 to June 2009" (as listed on page 51 of that report):</p> <ol style="list-style-type: none"> <li>1. Postings by members of the Inter-national Union Against Cancers "GLOBALink" network on proposals, legislative and regulatory reforms not currently in place in Australia.</li> <li>2. Recently published and soon to be published major reviews of scientific evidence conducted by intern - national scientific agencies.</li> <li>3. Reviews and meta-analyses and studies in scientific journals.</li> <li>4. Policy recommendations prepared by inter -national health authorities.</li> <li>5. Discussion papers prepared by expert groups.</li> <li>6. Reviews of evidence by government agencies prepared as part of regulatory impact statements required prior to consideration by legislators.</li> <li>7. Published and unpublished research on tobacco promotion and media education conducted by the Centre for Behavioural Research in Cancer.</li> </ol> <p>Published and unpublished results of the Inter-national Tobacco Control Four Nations (ITC 4 Nations) study.</p>	23 July 2010	BATA	Processing

No	Terms of request	Date received	Applicant	Status
17	<p>All documents that were created within the period 1 January 2008 to date 19 July 2010 referring or relating to:</p> <p>(a) the impact of the introduction of plain packaging of tobacco products on Australia's obligations under International law and International treaties, including but not limited to, Australia's obligations under:</p> <ul style="list-style-type: none"> <li>• the agreement that is generally referred to as the GATT Agreement (General Agreement on Trade and Tariffs)</li> <li>• the agreement that is generally referred to as the TRIPS Agreement (Agreement on Trade-Related Aspects of Intellectual Property Rights);</li> <li>• the agreement that is generally referred to as the TBT Agreement (Agreement on Technical Barriers to Trade);</li> </ul> <p>(b) the impact of the introduction of plain packaging of tobacco products on Australia's obligations under any free trade agreement or free trade agreements generally; and</p> <p>(c) the impact of the introduction of plain packaging of tobacco products on Australia's obligations under any bilateral investment treaty or bilateral investment treaties generally.</p>	23 July 2010	BATA	Processing
18	<p>All documents to do with:</p> <p>(a) the meetings and other activities of the Framework Convention on Tobacco Control (FCTC) Working Group, including but not limited to any involvement by the Department or any other Commonwealth department or agency in those meetings and activities;</p> <p>(b) the meetings and other activities of the FCTC Inter-governmental Negotiating Body, including but not limited to any involvement by the Department or any other Commonwealth department or agency in those meetings and activities;</p> <p>(c) the meetings and other activities of the FCTC Open-Ended Inter-governmental Working Group, including but not limited to any involvement by the Department or any other Commonwealth department or agency in those meetings and activities;</p> <p>(d) the meetings and other activities of the FCTC Conference of the Parties, including but not limited to any involvement by the Department or any other Commonwealth department or agency in</p>	23 July 2010	BATA	Processing



	<p>those meetings and activities;</p> <p>(e) the meetings and other activities of the FCTC Working Group for the development of guidelines on the implementation of Article 5.3, including, but not limited to any involvement by the Department or any other Commonwealth department or agency in those meetings and activities;</p> <p>(f) the meetings and other activities of the FCTC Working Group for the development of guidelines on the implementation of Article 11, including, but not limited to any involvement by the Department or any other Commonwealth department or agency in those meetings and activities;</p> <p>(g) the meetings and other activities of the FCTC Working Group for the development of guidelines on the implementation of Article 13, including, but not limited to any involvement by the Department or any other Commonwealth department or agency in those meetings and activities;</p> <p>(h) the meetings and other activities of any expert group associated with the FCTC, including any reports, guidelines or protocols developed by any such group.</p>			
<b>19</b>	<p>All briefing papers and minutes prepared for the Minister, the Parliamentary Secretary or senior departmental officers in the period from 1 January 1996 to 31 December 1997 that referred or related to tobacco use or tobacco regulation.</p> <p>All inter-departmental and general correspondence and papers created in the period from 1 January 1996 to 31 December 1997 that referred or related to tobacco use or tobacco regulation.</p> <p>All records of internal departmental management meetings and teleconferences, including agendas and minutes created in the period from 1 January 1996 to 31 December 1997 that referred or related to tobacco use or tobacco regulation.</p>	23 July 2010	BATA	Withdrawn by applicant
<b>20</b>	<p>All documents referring or relating to:</p> <p>(a) advice received by the Department in or around December 1995, including legal advice received from the Attorney General's Department on 14 December 1995, in relation to the generic packaging of tobacco products (Advice);</p> <p>(b) any summary or other document that discloses the substance of the Advice that was prepared of, or in relation to, the Advice (Summary),</p> <p>(c) any request by the TWG that it be provided with a copy of the Advice or Summary, including any response to that request;</p>	23 July 2010	BATA	Withdrawn by applicant



	<p>(d) any request by the MTAG that it be provided with a copy of the Advice or Summary, including any response to that request;</p> <p>(e) consideration by the Department of any request by the TWG that it be provided with a copy of the Advice or Summary, including any decision, discussion or deliberation in relation to that request; and consideration by the Department of any request by the MTAG that it be provided with a copy of the Advice or Summary, including any decision, discussion or deliberation in relation to that request.</p>			Withdrawn by applicant
21	<p>All documents created before 1 July 1993</p> <p>(a) the policy objectives or outcomes that were sought to be achieved through the introduction of the Tobacco Advertising Prohibition Act 1992 (Clth) (TAP Act) and any associated subordinate legislation;</p> <p>(b) the expected effect or impact of the introduction of the TAP Act and any associated subordinate legislation, including but not limited to any research or analysis in relation to the expected effect or impact of that legislation; or</p> <p>(c) the role or significance of the TAP Act and any associated subordinate legislation in the context of the Department's long term strategy or goals in relation to tobacco control.</p>	23 July 2010	BATA	Withdrawn by applicant
22	<p>All documents created in the period 1 January 1992 to 31 December 1995</p> <p>(a) the expected effect or impact of the new health warnings that were being considered by the NHMRC and Ministerial council during the period 1992 to 1994 (New Health Warnings);</p> <p>(b) research or analysis that was commissioned or considered by the NHMRC and Ministerial Council in relation to the New Health Warnings, including but not limited to research undertaken or overseen by the Centre for Behavioural Research in Cancer;</p> <p>(c) the policy objectives or outcomes that were sought to be achieved through the introduction of the New Health Warnings;</p> <p>(d) the role or significance of the New Health Warnings in the context of the Department's long term strategy or goals in relation to tobacco control;</p> <p>(e) the expected effect or impact of the introduction of the Trade Practices (Consumer Product</p>	4 Aug 2010	BATA	Withdrawn by applicant



<p><b>23</b></p>	<p>Information Standards) (Tobacco Regulation Commonwealth) Regulations 1994 (Clth) (TPA Regulation), including any impact statements, cost benefit analysis or any other reassessment of the expected effect or impact of that legislation;</p> <p>(f) research or analysis that was commissioned or considered in relation to the introduction of the TPA Regulation, including but not limited to research undertaken or overseen by the Centre for Behavioural Research in Cancer and any research in relation to the design and development of the health warnings introduced by the TPA Regulation;</p> <p>(g) the policy objectives or outcomes that were sought to be achieved through the introduction of the TPA Regulation;</p> <p>(h) the role or significance of the TPA Regulation in the context of the Department's long term strategy or goals in relation to tobacco control;</p> <p>(i) research, analysis or consideration in relation to the introduction of health warnings on tobacco products containing photographs, pictures or other images; or</p> <p>(j) research, analysis or consideration in relation to the introduction of generic or plain packaging of tobacco products.</p>			
	<p>All documents created in the period 1 December 1995 to 31 December 1997 referring or relating to:</p> <p>(a) consideration of, or discussion in relation to, the recommendations made in the report presented in December 1995 by the Senate Community Affairs References Committee to the Commonwealth Parliament titled, "The Tobacco Industry and the Costs of Tobacco Related Illness" (Herron Report) in relation to;</p> <p>(A) generic or plain packaging of tobacco products;</p> <p>(B) mandatory health warnings on tobacco products.</p> <p>(b) the development of a formal response by the Commonwealth government to the Herron Report;</p> <p>(c) advice, including legal advice, sought in relation to the recommendations of the Herron Report, excluding the legal advice that is the subject of AAT proceedings no. 2009/4800, Phillip Morris Ltd v Department of Health and Ageing, to which the Applicant is a party;</p> <p>(d) advice, including legal advice, sought in relation to the introduction of generic or plain packaging</p>	<p>4 Aug 2010</p>	<p>BATA</p>	<p>Withdrawn by applicant</p>



	<p>of tobacco products, excluding the legal advice that is the subject of AAT proceedings no. 2009/4800, Phillip Morris Ltd v Department of Health and Ageing, to which the Applicant is party; or</p> <p>(e) any report, review or research commissioned or undertaken as a consequence of Recommendation 18 of the Herron Report; and</p> <p>(f) any independent research body or facility established as a consequence of Recommendation 18 of the Herron Report.</p>		
<p><b>24</b></p>	<p>All documents created between 1 January 2000 and 31 December 2004 referring or relating to:</p> <p>(a) any report, review or research that was commissioned by or on behalf of the Department, or any agency of the Department, or was considered by the Department in relation to the effectiveness of graphic health warnings on tobacco products;</p> <p>(b) any report, review or research that was commissioned by or on behalf of the Department, or any agency of the Department, or was considered by the Department in relation to the optimum or preferred design and size of graphic health warnings on tobacco products;</p> <p>(c) any report, review or research, other than that captured by paragraphs (a) and (b) above, that was relied on in the preparation of the Regulatory Impact Statement (RIS) published in relation to the Trade Practices (Consumer Product Information Standards) (Tobacco Regulation Commonwealth) Regulations 2004 (Clth) (TPA Regulation 2004), including but not limited to research in relation to the effectiveness of health warnings in jurisdictions outside Australia and any research commissioned by the Ministerial Council;</p> <p>(d) any report, review or research (other than the RIS) that was commissioned by or on behalf of the Department, or any agency of the Department, in relation to the impact, effect or costs implications of the graphic health warnings that were introduced by the TPA Regulation 2004;</p> <p>(e) any research, other than that captured by paragraphs (a), (b) and (f) above, in relation to the development or design of the graphic health warnings that were introduced by the TPA Regulation 2004; advice, including legal advice, sought in relation to the introduction of the graphic health warnings that were introduced by the TPA Regulation 2004; or</p> <p>(g) the role or significance of the TPA Regulation 2004 in the context of the Department's long term strategy or goals in relation to tobacco control.</p>	<p>4 Aug 2010</p>	<p>BATA</p> <p>Withdrawn by applicant</p>



<p><b>25</b></p>	<p>All documents created in the period 1 January 1997 to 30 June 1999 that fall within the following categories referring or relating to:</p> <ul style="list-style-type: none"> <li>(a) any report, review or research commissioned as a consequence of the recommendations in relation to mandatory health warnings on tobacco products, made in the report issued in June 1999 by the Ministerial Council titled the "National Tobacco Strategy 1999 to 2002/03" (1999 Strategy), including but not limited to any research into the public's understanding of health risks associated with tobacco use;</li> <li>(b) research or analysis in relation to, or consideration of, the introduction of health warnings that display photographs, pictures or other images;</li> <li>(c) research or analysis in relation to, or consideration of, the introduction of generic or plain packaging of tobacco products; or</li> <li>(d) the role or significance of the 1999 Strategy in the context of the Department's long term strategy or goals in relation to tobacco control, particularly in relation to the "elimination" of tobacco use in Australia which is identified in the Background Paper to the 1999 Strategy (at page 11) as a key goal of the 1999 Strategy.</li> </ul>	<p>4 Aug 2010</p>	<p>BATA</p>	<p>Withdrawn by applicant</p>
<p><b>26</b></p>	<p>All documents created after 1 March 2006 where those documents refer or relate to any report, review or research that was commissioned by or on behalf of the Department, or any agency of the Department, or was considered by the Department in relation to the effectiveness of the graphic health warnings on tobacco products that were introduced by the Trade Practices (Consumer Product Information Standards) (Tobacco Regulation Commonwealth) Regulations 2004 (Clth).</p>	<p>4 Aug 2010</p>	<p>BATA</p>	<p>Processing</p>

No	Terms of request	Date received	Applicant	Status
27	<p>All documents created after 1 August 2009 that fall within the following categories referring or relating to:</p> <p>(a) any consideration by the Department of the private members bill, known as the Plain Tobacco Packaging (Removing Branding from Cigarette Packs) Bill 2009, introduced by Senator Fielding into the Commonwealth Senate in August 2009 (Fielding Bill);</p> <p>(b) any report, review or research that was commissioned by or on behalf of the Department, or any agency of the Department, or was considered by the Department in relation to the effectiveness of the reforms proposed by the Fielding Bill;</p> <p>(c) any report, review or research that was commissioned by or on behalf of the Department, or any agency of the Department, in relation to the impact, effect or costs implications of the reforms proposed by the Fielding Bill; or</p> <p>(d) advice, including legal advice, sought in relation to the reforms proposed by the Fielding Bill.</p>	4 Aug 2010	BATA	Processing
28	<p>All documents that contain FOI requests seeking access to documents held by the Department that relate to the anti-smoking action announced by the Prime Minister, Treasurer and Minister for Health on 29 April 2010.</p> <p>Documents concerning the expense, time and resources used by the Department to date in the course of responding to FOI requests seeking access to documents held by the Department that relate to the anti-smoking action announced by the Prime Minister, Treasurer and Minister for Health on 29 April 2010.</p>	27 Sept 2010	Action on Smoking and Health (ASH)	Withdrawn by applicant
29	Internal Review of the Anti-Smoking Action of 29 April 2010.	21 Dec 2010	BATA	Completed
30	Access to tobacco-related documents referred to in the linked document schedule, created by the Department of Health and Ageing for the Senate Community Affairs Committee. Specifically, The Australian requests access to the documents 1, 3, 4, 7, 8, 10 and 12 referred to in the tabled schedule.	13 Jan 2011	The Australian Newspaper	Withdrawn by applicant



No	Terms of request	Date received	Applicant	Status
31	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 5 April 2011)."</i>	7 April 2011	PML	Negotiation
32	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	23 March 2011 (Transfer from Dept of Finance and Deregulation)	PML	Negotiation
33	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	21 March 2011 (Transfer from Office of the Minister for Health and Ageing)	PML	Negotiation



No	Terms of request	Date received	Applicant	Status
34	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	28 March 2011 (Transfer from Dept of the Prime Minister and Cabinet)	PML	Negotiation
35	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	28 March 2011 (Transfer from Office of the Prime Minister)	PML	Negotiation
36	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	31 March 2011 (Transfer from The Treasury)	PML	Negotiation

No	Terms of request	Date received	Applicant	Status
37	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	6 April 2011 (Transfer from Office of the Minister for Competition Policy and Consumer Affairs)	PML	Negotiation
38	Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"the documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i>	7 April 2011 (Transfer from Dept of Foreign Affairs and Trade)	PML	Negotiation
39	All correspondence dated after 1 January 2010 between the Department and News Limited, Fairfax Media Publications Pty Ltd or any other media organisation or proprietor regarding the publication of advertisements paid for or commissioned by:  (a) tobacco companies; or  (b) stakeholders in the tobacco industry.	7 April 2011	BATA	Completed
40	<b>Federal Court</b> - BATA are appealing the AAT decision that was handed down on 30 March 2011, which found in the Department's favour. Documents relating to Response to the Senate Community Affairs Reference Committee: The Tobacco Industry and the Costs of Tobacco-Related Illness. On 23 August 2011, the Full Federal Court handed down its judgement. The Court found in the Department's favour and upheld the AAT's decision. High Court special leave application has been filed.	April 2011	BATA	Processing
No	Terms of request	Date received	Applicant	Status



	12 April 2011	Bloomberg News	Completed
<p><b>41</b> Any reports or correspondence, written or electronic, the Minister or the Department received from April 10/2010 to April 10/2011 that provide cost estimates of potential litigation related to the Tobacco Plain Packaging Bill 2011.</p>			
<p><b>42</b> Internal Review of documents created or received on or after 1 January 2005 to 24 June 2010 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents.</p>	19 April 2011	PML	Deemed refusal
<p><b>43</b> Internal Review of first tranche of documents from the refined BATA 10.</p>	27 April 2011	BATA	Deemed refusal
<p><b>44</b> All documents relating to the formulation and drafting of any regulations intended to be introduced pursuant to the Tobacco Plain Packaging Bill 2011 once enacted.</p>	4 May 2011	BATA	Access refused
<p><b>45</b> All or any documents that state explicitly Australia has an obligation to introduce plain packaging under the WHO's FCTC.</p>	11 May 2011	Institute of Public Affairs	Deemed withdrawal
<p><b>46</b> All or any documents that state explicitly the Department's view about the relationship between the WHO's FCTC and WTO's TRIPS.</p>	11 May 2011	Institute of Public Affairs	Deemed withdrawal
<p><b>47</b> Documents created or received on or after 1 January 2005 to 5 April 2011 relating to plain packaging of tobacco products, according to 19 focus questions on plain packaging, smoking rates, product prices and competition, retailing of tobacco products, illicit trade, graphic health warnings, intellectual property rights, trade obligations, documents passing between specific organisations and departments, research and writing of the Preventative Health Task Force, tobacco control, the Anti-smoking Action, legal advice and other specified documents. <i>"The documents detailed in Schedule 1 and Schedule 2 attached to your letter, being 'documents relating to or concerning plain packaging' which were created or received on or after 1 January 2005 to the date of your letter (ie 17 March 2011)."</i> Office of Information Commissioner conducting a review.</p>	5 May 2011	PML	Negotiation. (Was a deemed refusal due to admin oversight).



No	Terms of request	Date received	Applicant	Status
48	Complaint made to the Ombudsman's Office by applicant about FOI charges.	25 May 2011	PML	Processing
49	All documents related to proposals for plain packaging of consumer products since 31 May 2010, being my last FOI into the same matter, but not including: documents previously released to me under FOI; duplicate documents; publicly available documents and early drafts of documents where a final version is available: In terms of consumer products I mean food, alcohol and tobacco products. With regard to documents previously released that is specific to IP Australia and should not be considered as part of this partially transferred request. As the applicant did not respond to the Department's Notice of Intention to Refuse by the deadline of 12 July 2011, this request was deemed to have been withdrawn.	8 June 2011 (accepted transfer from IP Australia)	Institute of Public Affairs	Deemed withdrawal
50	All copies of all submissions made to the Department relating to the exposure draft of the government's plain packaging legislation.	20 June 2011	Institute of Public Affairs	Withdrawn by applicant
51	Internal Review of second tranche of documents from the refined BATA 10. Department advised applicant on 5 August 2011 that it was unable to complete internal review by 30 day deadline, and that Department did not consider that any short-term extension of time would be sufficient to allow the internal review process to be completed without having substantial adverse impact on the Department's other operations.	6 June 2011	BATA	Deemed refusal
52	Copies of all transcripts of radio and television interviews of the Health Minister, Nicola Roxon, from the 26 April 2010 to 30 May 2010. This request was withdrawn on 12 August 2011.	12 July 2011	Institute of Public Affairs	Withdrawn by applicant
53	A report by Biotext, as listed CN ID CN405688, arising from the analysis of the public submissions on the Tobacco Plain Packaging Bill. This request was withdrawn on 18 August 2011.	20 July 2011	The Australian	Withdrawn by applicant

No	Terms of request	Date received	Applicant	Status
54	<p>The document cited at footnote 16 of the Consultation Paper to the Tobacco Plain Packaging Bill 2011 dated 7 April 2011 as follows:</p> <p>Wakefield M, Germain D, Durkin S, Hammond D, Goldberg M and Borland R 2011 'Effects of Increasing size of Health Warnings on plain vs branded packs'. Presentation at Society for Research on Nicotine and Tobacco 17<sup>th</sup> Annual meeting February 17, 2011 Toronto Canada.</p>	20 July 2011	PML	Processing
55	<p>Complaint made to the Information Commissioner's Office by applicant about FOI charges.</p>	25 July 2011	PML	Processing
56	<p>(a) Any document, created since June 2010, addressing or providing direction as to how to respond to or process:</p> <ul style="list-style-type: none"> <li>(i) any request made under the FOI Act relating to the plain packaging of tobacco products (<i>PP FOI Request</i>); and/or</li> <li>(ii) any request made by a tobacco manufacturer under the FOI Act, including by Philip Morris Limited, British American Tobacco Australia, Imperial Tobacco Australia Limited (<i>Tobacco FOI Request</i>).</li> </ul> <p>(b) Any document explaining the criteria applied by the FOI Charges Calculator (as referred to in the enclosed letter dated 7 April 2011) and/or any guidelines for its use.</p> <p>The reference above to <i>Document</i>, includes any email, report, memorandum, analysis or file note, <b>other than:</b></p> <ul style="list-style-type: none"> <li>• correspondence sent to the tobacco manufacturers and/or their legal representatives;</li> <li>• any advice that is subject to legal professional privilege received by the Department of Health and Ageing concerning a PP FOI Request or a Tobacco FOI Request;</li> <li>• documents available to the general public; and</li> <li>• in respect of request 2(a) above, Documents addressing or providing direction as to how to respond to or process FOI requests generally, such as a guide or manual which is not directed exclusively to addressing or providing direction as to how to process or respond to a PP FOI Request or a Tobacco FOI Request</li> </ul> <p>The reference above to <i>Request</i>, includes any application under s 15 of the FOI Act seeking access to information held by Commonwealth agencies and any request for review of a decision (including a charges decision) made pursuant to the FOI Act.</p>	29 August 2011	PML	Access refused
No	Terms of request	Date received	Applicant	Status



57	<p>Documents created after 2008 where those documents record or relate to communications or advice from or to:</p> <ul style="list-style-type: none"> <li>(a) Attorney General's Department; and/or</li> <li>(b) IP Australia, and/or</li> <li>(c) Department of the Prime Minister and Cabinet</li> </ul> <p>on amendments to the <i>Trade Marks Act 1995 (Cth)</i> in the context of plain packaging, including but not limited to, communications or advice on the formulation of the <i>Trade Marks Amendment (Tobacco Plain Packaging) Bill 2011 (Cth)</i>.</p>	31 August 2011	BATA	Negotiation
58	Same as request 57.	8 September 2011	BATA	Negotiation
59	<p>All documents created between 1 June 2003 and 28 February 2006 which refer to or contain information:</p> <ul style="list-style-type: none"> <li>(a) predicting or assessing any likely gain or benefit, financial or otherwise, or cost-saving to the Commonwealth as a result of the graphic health warnings required by the Trade Practices (Consumer Product Information Standards)(Tobacco) Regulations 2004 (Cth) ('the Graphic Health Warnings'); or</li> <li>(b) reporting or commenting on any gain or benefit, financial or otherwise, or cost-saving to the Commonwealth as a result of the Graphic Health Warnings;</li> </ul> <p>including, but not limited to, documents which report or comment on the findings of studies undertaken in relation to (a) or (b) above.</p>	<p>(Partial transfer from PM&amp;C)</p> <p>22 September 2011</p>	BATA	Negotiation

60	<p>All documents created between 1 March 2006 and 29 April 2010 which refer to or contain information:</p> <p>(a) predicting or assessing any likely gain or benefit, financial or otherwise, or cost-saving to the Commonwealth as a result of the graphic health warnings required by the Trade Practices (Consumer Product Information Standards)(Tobacco) Regulations 2004 (Cth) ('the Graphic Health Warnings'); or</p> <p>(b) reporting or commenting on any gain or benefit, financial or otherwise, or cost-saving to the Commonwealth as a result of the Graphic Health Warnings;</p> <p>including, but not limited to, documents which report or comment on the findings of studies undertaken in relation to (a) or (b) above.</p>	22 September 2011	BATA	Negotiation
61	<p>All documents created after 29 April 2010 which refer to or contain information:</p> <p>(a) predicting or assessing any likely gain or benefit, financial or otherwise, or cost-saving to the Commonwealth as a result of the graphic health warnings required by the Trade Practices (Consumer Product Information Standards)(Tobacco) Regulations 2004 (Cth) ('the Graphic Health Warnings'); or</p> <p>(b) reporting or commenting on any gain or benefit, financial or otherwise, or cost-saving to the Commonwealth as a result of the Graphic Health Warnings;</p> <p>including, but not limited to, documents which report or comment on the findings of studies undertaken in relation to (a) or (b) above.</p>	22 September 2011	BATA	Negotiation
62	<p>Same as request 57.</p>	22 September 2011 (Transfer from IP Australia)	BATA	Negotiation
63	<p>Complaint made to the Information Commissioner's Office by applicant about FOI charges relating to two requests.</p>	12 October 2011	BATA	Negotiation